

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

TRUMAN D. MANNING, a/k/a TURMAN  
MANNING,

Defendant-Appellee.

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UNPUBLISHED

July 13, 2010

No. 291823

Wayne Circuit Court

LC No. 08-014036-FC

Before: MURRAY, P.J., and DONOFRIO and GLEICHER, JJ.

PER CURIAM.

This appeal involves the dismissal of armed robbery charges based on a finding by the trial court that the State of Michigan had not complied with the requirements of the Interstate Agreement on Detainers (IAD), MCL 780.601. Plaintiff appeals as of right from the trial court order that granted defendant's motion to dismiss, and we reverse and remand. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

**I. FACTS AND PROCEEDINGS**

On October 20, 2004, a 7-11 store in Brownstown Township was robbed by a man brandishing a knife. While investigating this crime, the police retrieved a dollar bill that was stained with blood. This dollar bill was sent to the police crime lab for testing. Almost two years later, the crime lab issued a laboratory report dated July 17, 2006. This laboratory report stated a search of the Combined DNA Index System database resulted in a match between the blood and "Ohio Convicted Offender specimen number F0512595," who was identified as defendant. It also listed defendant's birthday and social security number. In the ensuing months, the Brownstown police department was unable to locate defendant. On August 28, 2006, the district court issued a warrant for defendant's arrest.

Two years later, on October 1, 2008, defendant was arrested as he exited a Secretary of State office in Ohio. After being extradited to Michigan, he was charged with armed robbery, MCL 750.529, and served notice that he was subject to the penalties of being an habitual offender, third offense, MCL 769.11. On March 30, 2009, defendant filed a motion seeking dismissal of the charges on the grounds that the statutory time periods were violated and that the pre-arrest delay deprived him of procedural due process.

At the hearing on defendant's motion to dismiss, it was revealed that defendant was in custody in an Ohio correctional facility on July 19, 2006, and then incarcerated in Illinois on August 25, 2006. Defendant remained incarcerated in Illinois until his parole in August 2008. Brownstown Police Detective Robert Grant testified that in his handling of this case he made no efforts to contact state agencies in Ohio or Illinois when trying to locate defendant, and he explained this was due to a lack of time to reach out to other states because he and his staff of three officers were very busy.

After the evidence was presented, defendant argued that the IAD was violated by the State of Michigan when it knew defendant was in custody in a correctional institution in another state and yet failed to notify the correctional institution about charges pending against defendant. After confirming that Ohio and Illinois were both party states to the IAD, the trial court made a finding of fact that Detective Grant received information that defendant was incarcerated in Ohio and could also have been incarcerated in Illinois and, as such, Detective Grant should have inquired into those possible incarcerations by telephoning those states. In granting the motion to dismiss, the court found that Michigan was obligated under the IAD to notify the state in which defendant was incarcerated about the charges pending against defendant:

Bottom line, . . . when the warrant was issued, and the officer had knowledge that [the Defendant] was being detained either in Ohio or Illinois, [the officer] was obligated to contact Ohio or Illinois, and advise them of -- that warrant was there. The notice was to be given to the Defendant by either one of those states.

The only thing I don't have at this point is testimony from the Defendant that he didn't get notified. But I got testimony from the defense -- from the officer, he didn't send anything to either of those states. So if the officer didn't send it, there was no way the Defendant could have been notified.

The [IAD] requires that it be construed liberally to serve the purposes for which it was designed and that was, to ensure that those that are being detained can be -- have all matters addressed expeditiously. That wasn't done. [The Defendant] should have been brought within 180 days. It's now almost 300 and some-odd days.

## II. ANALYSIS

Plaintiff asserts that the trial court abused its discretion in dismissing the charges against defendant upon the basis of the IAD, which as noted is set forth in MCL 780.601. Specifically, plaintiff argues that the IAD does not obligate a state to file a detainer concerning pending charges against a defendant who is known to be incarcerated in another state, and that the IAD was not invoked in this case since no detainer was ever filed.

This Court reviews for an abuse of discretion a trial court's decision on a motion to dismiss. *People v Stone*, 269 Mich App 240, 242; 712 NW2d 165 (2005). The interpretation and application of a statute is a question of law that this Court reviews de novo. *People v Webb*, 458 Mich 265, 274; 580 NW2d 884 (1998). Furthermore, the IAD is a congressionally

sanctioned interstate compact and, as such, is a federal law subject to federal construction. *People v Bowman*, 442 Mich 424, 428; 502 NW2d 192 (1993).

It is well established that the IAD's statutory triggering device is the filing of a detainer. Although this Court has held that "there is no exact definition of the term 'detainer,' it has generally been recognized to mean written notification filed with the institution in which a prisoner is serving a sentence advising that the prisoner is wanted to face pending charges in the notifying state." *People v Gallego*, 199 Mich App 566, 574; 502 NW2d 358 (1993). "Once a detainer is filed, it is then that the IAD is triggered and compliance with the provisions of the agreement is required." *People v Patton*, 285 Mich App 229, 232; 775 NW2d 610 (2009), quoting *Gallego*, 199 Mich App at 574; see also *United States v Mauro*, 436 US 340, 343-344; 98 S Ct 1834; 56 L Ed 2d 329 (1978) (the IAD can be applied to a prisoner only after a detainer is filed with the custodial state by the state having untried charges pending against the prisoner). In this case, no detainer was ever filed, and so the protections and procedures afforded by the IAD are simply inapplicable to defendant.

Defendant acknowledges the foregoing, but nonetheless argues that the IAD required that a detainer be filed in this situation where a state had pending charges against a defendant that it knew was incarcerated in another state. However, nothing in the clear statutory language of the IAD contains such an obligation, and it would be an improper expansion of the statutory language to judicially inject such a requirement. Finally, we note that the case cited by defendant in support of his argument is inapposite since it involves Michigan's 180-day speedy trial rule, MCL 780.131; MCR 6.004(D), not the IAD.

The trial court referenced due process principles when it held that the IAD required Michigan to file a detainer when it was aware that a defendant was incarcerated in another state. However, the purpose of the IAD is to facilitate the prompt disposition of outstanding charges against an inmate incarcerated in another jurisdiction, *Patton*, 285 Mich App at 232, not to safeguard a defendant's right to notification. The rights afforded to defendants pursuant to the IAD are statutory and not constitutional, *People v Jones (After Remand)*, 197 Mich App 76, 80; 495 NW2d 159 (1992), and defendant had no procedural due process rights pursuant to the IAD since the IAD was never invoked in this case.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Christopher M. Murray  
/s/ Pat M. Donofrio  
/s/ Elizabeth L. Gleicher